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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Andre Morin

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04/19/2006

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EXAMINER

OKEZIE, ESTHER O

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/801,028	<b>Applicant(s)</b> MORIN ET AL.	
	<b>Examiner</b> Esther O. Okezie	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment filed on 2/04/06 and the remarks presented therewith have carefully considered. Applicant's arguments with respect to claims 1-6 have been considered but are not persuasive.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDermott in view of Kulage and further in view of Diaz.
2. Re claim 1, McDermott discloses A transporting device capable of being removably connectable to a spool of cable, said device comprising: a stationary handle (31) including a central portion positionable within a hand of a user; a movable handle (21) disposed below said stationary handle and being selectively movable along a substantially vertical path between raised and lowered positions, said movable handle cooperating with said stationary handle during operating conditions; a housing (cylinder 17) positionable into a spool opening and being secured to said stationary handle, said housing including a piston (18) slidably mounted therein and having a plurality of spaced apertures (23) formed about said piston, said housing further including an

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elongated fastening member (rod 8) secured to said piston and to said movable handle; and a plurality of latching members (26) pivotally connected to said piston respectively and being movable between retracted and extended positions through said plurality of apertures as said movable handle is lowered and raised respectively, said piston for engaging a select portion within a spool opening and thereby allowing an operator to lift a spool and transport same while said movable handle is maintained at a raised position, said plurality of latching members being disengageable from a spool when said movable handle is released to a lowered position (fig. 1)

McDermott discloses only one piston (hub 18) with three spaced latching members (26) connected to it. McDermott does not disclose a plurality of pistons with a plurality of latching members attached to the pistons. Kulage discloses a self-adjusting connector comprising a handle (30) and a lifting ring (32) connected to extension rod (22) that moves pistons or knuckles (10a, 10b) and connected cam members (18). The cam members are provided on each of the pistons for engaging an inner cylindrical surface. It would have been obvious to one of ordinary skill to provide a plurality of pistons with connected latch members as taught by Kulage instead of just one piston and connected latch members as disclosed by McDermott to provide a stronger engagement of the inside of the object being moved given that more latches displaced along the interior of the object would provide a stronger hold on the object during transport. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

McDermott discloses a stationary handle (31) with a flat surface (20) forming a stop against which said movable handle (21) is directly abutted when said movable handle is adapted to the lowered position so that said movable handle is prohibited from moving below said bottom surface of said stationary handle (see figs 2 and 5; col. 3, lines 25-40). McDermott does not disclose the stationary handle having a downward converging bottom surface. It is unclear why this limitation now appears in the amendment since Applicant has not described the downward converging surface of the handle or that this is used for a particular purpose or solves a stated problem. Diaz discloses a drum removing and installing tool whose legs are moved by a slidable handle (36) in order to engage the inside surface of the drum during transport (Abstract). The device of Diaz includes a movable or slidable handle (36) and a stationary handle (26) above which a round or concave retainer (29) having a downward converging bottom surface acts as a stop to halt the movement of the slidable handle below the stationary handle. It would have been obvious to one of ordinary skill at the time of the invention to modify the stationary of McDermott to include a downward converging bottom surface as taught by Diaz in order to easily engage the movable handle and act as a catch.

It is not clear whether McDermott discloses said latching members have a longitudinal length substantially equal to a thickness of said pistons respectively. It is also unclear why this limitation now appears in the amendment since Applicant has not described that the length of the latching members being substantially equal to the thickness of the piston is intended for a particular purpose or solves a stated problem. It

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would have been obvious to one of ordinary skill at the time of the invention to make the length of the latching members being substantially equal to the thickness of the piston as a matter of design choice. Applicant's invention would perform equally well with the length of latching members greater than or less than the thickness of the piston.

3. Re claim 2, McDermott discloses a housing an upper section and a lower section integral therewith, said upper and lower sections each having a predetermined diameter, said upper section having a tapered bottom edge directly conjoined with a top edge of said lower section, said predetermined diameter of said upper section being greater than said predetermined diameter of said lower section (see figures 1 and 3).

4. Re claim 3, McDermott discloses a first set of said plurality of latching members is diametrically spaced approximately 120 degrees apart (fig 2).

5. Re claim 4, McDermott does not disclose a second set of said plurality of latching members are diametrically spaced approximately 120 degrees apart, said second set of latching members being disposed below said first set of latching members and for cooperating therewith to maintain said device securely engaged with a spool of cable. McDermott discloses only one set of latching members.

Kulage discloses a self adjusting connector comprising a handle (30) and a lifting ring (32) connected to extension rod (22) which moves pistons or knuckles (10a,10b) and connected cam members (18). The cam members are provided on each of the pistons for engaging an inner cylindrical surface. It would have been obvious to one of ordinary skill to provide a second set of latching members as taught by Kulage instead of just one set of latch members as disclosed by McDermott to provide a stronger

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engagement of the inside of the object being moved given that more latches displaced along the interior of the object would provide a stronger hold on the object during transport. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

6. Re claim 5, McDermott discloses a rod engaged with said piston. As seen in figures 1 and 3, a bolt is connected at the rod end which would likely be connected by screw threading. However McDermott does not show threads along the rod. Kulage discloses threaded bolt (12) and threadably engaged with pistons or knuckles (10; see figs. 3 and 5; col. 4, lines 5-32). It would have been obvious to one of ordinary skill in the art to provide a threaded rod for threaded connection of the pistons as taught by Kulage so that the pistons could be tightly held on the rod as well as shifted along the rod to accommodate objects differing in height.

7. Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of McDermott and Kulage in view of Diaz and further in view of Cooper. McDermott does not disclose a stationary handle with a plurality of substantially vertical grooves formed therein and for guiding said movable handle therealong. Cooper discloses a pipe extractor tool with capable of being removably connectable to the inside of a spool of cable, the device including a stationary handle (16) and a movable handle (16) that slides within the vertical bore (20) and smaller vertical counterbore (21) guided by shoulders (22) of the stationary handle. It would have been obvious to one of ordinary skill in the art to provide vertical grooves in the stationary handle of McDermott as taught by Cooper in order guide the movable handle within the stationary handle.

### ***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive. Applicant has argued that there is no teaching, suggestion, or motivation to include a second piston in McDermott because a person of ordinary skill in the art would find it redundant, unnecessary and costly. In response Applicant has added a second piston and second group of latching members and Kulage also shows this arrangement including two pistons. If this argument were accurate then Applicant's inclusion of a second piston and latching member arrangement would also be "redundant, unnecessary, and costly."

Applicant has argued that the addition of a second piston and latching arrangement would not provide McDermott with a stronger engagement on the inside of the object being transported. In response, McDermott teaches a single piston and a single assembly of latching members. Kulage teaches a single piston and a single assembly of latching members in Figures 1-3, in alternate embodiments of Figures 4-6 Kulage teaches two pistons with respective latching members attached thereto. It is a matter of fact that contacting an object over more of its surface area will enable stronger hold of that object.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP



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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (571) 272-8108. The examiner can normally be reached on Mon-Thurs 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EOO 4/13/06

 4/17/06  
**DEAN J. KRAMER**  
**PRIMARY EXAMINER**